years. In 1979, the amount added to X's income is $12,000 under section 667(b), $2,000 of which is deductible under section 667(d)(1)(B). X must reduce its overall foreign loss account by $10,000, the amount of the actual distribution that is deemed distributed in 1979 (without regard to the $2,000 foreign taxes also deemed distributed). The entire overall foreign loss account is therefore reduced to $0 in 1979.

[T.D. 8153, 52 FR 32002, Aug. 25, 1987]

§ 1.904(f)–5 Special rules for recapture of overall foreign losses of a domestic trust.

(a) *In general.* Except as provided in this section, the rules contained in §§ 1.904(f)–1, 1.904(f)–2, 1.904(f)–3, 1.904(f)–4, and 1.904(f)–6 apply to domestic trusts.

(b) *Recapture of trust's overall foreign loss.* In taxable years in which a trust has foreign source taxable income subject to a separate limitation in which the trust has a balance in its overall foreign loss account, the balance in the trust's overall foreign loss account shall be recaptured as follows:

(1) *Trust accumulates income.* If the trust accumulates all of its foreign source taxable income subject to the same limitation as the loss that created the balance in the overall foreign loss account, its overall foreign loss shall be recaptured out of such income in accordance with §§ 1.904(f)–1, 1.904(f)–2, 1.904(f)–3, 1.904(f)–4, and 1.904(f)–6.

(2) *Trust distributes income.* If the trust distributes all of its foreign source taxable income subject to the same limitation as the loss that created the overall foreign loss account, the amount of the overall foreign loss that would be subject to recapture by the trust under paragraph (b)(1) of this section shall be allocated to the beneficiaries in proportion to the amount of such income which is distributed to each beneficiary in that year.

(3) *Trust accumulates and distributes income.* If the trust accumulates part of its foreign source taxable income subject to the same limitation as the loss that created the overall foreign loss account and distributes part of such income, the portion of the overall foreign loss that would be subject to recapture by the trust under paragraph (b)(1) of this section if the distributed income were accumulated shall be allocated to the beneficiaries receiving income distributions. The amount of overall foreign loss to be allocated to such beneficiaries shall be the same portion of the total amount of such overall foreign loss that would be recaptured as the amount of such income which is distributed to each beneficiary bears to the total amount of such income of the trust for such year. That portion of the overall foreign loss subject to recapture in such year that is not allocated to the beneficiaries in accordance with this paragraph (b)(3) shall be recaptured by the trust in accordance with paragraph (b)(1).

(c) *Amounts allocated to beneficiaries.* Amounts of a trust's overall foreign loss allocated to any beneficiary in accordance with paragraph (b)(2) or (3) of this section shall be added to the beneficiary's applicable overall foreign loss account and treated as an overall foreign loss of the beneficiary incurred in the taxable year preceding the year of such allocation. Such amounts shall be recaptured in accordance with §§ 1.904(f)-1, 1.904(f)-2, 1.904(f)-3, 1.904(f)-4, and 1.904(f)-6 out of foreign source taxable income distributed by the trust which is subject to the same separate limitation.

(d) *Section 904(f)(3) dispositions to which § 1.904(f)-2(d)(4)(i) is applicable.* Foreign source taxable income recognized by a trust under § 1.904(f)-2(d)(4) on a disposition of property used in a trade or business outside the United States shall be deemed to be accumulated by the trust. All such income shall be used to recapture the trust's overall foreign loss in accordance with § 1.904(f)-2(d)(4).

(e) *Illustrations.* The provisions of this section are illustrated by the following examples:

Example 1. T, a domestic trust, has a balance of $2,000 in a general limitation overall foreign loss account on December 31, 1983. For its taxable year ending on December 31, 1984, T has foreign source taxable income subject to the general limitation of $1,600, all of which it accumulates. Under paragraph (b)(1) of this section, T is required to recapture $800 in 1984 (the lesser of the overall foreign loss or 50 percent of the foreign source taxable income). This amount is treated as United States source income for purposes of taxing T in 1984 and upon subsequent distribution to T's beneficiaries. At the end of its 1984 taxable year, T has a balance of $1,200 in its overall foreign loss account.

Example 2. The facts are the same as in example 1. In 1985, T has general limitation foreign source taxable income of $1,000, which it distributes to its beneficiaries as follows: $500 to A, $250 to B, and $250 to C. Under paragraph (b)(1) of this section, T would have been required to recapture $500 of its overall foreign loss if it had accumulated all of such income. Therefore, under paragraph (b)(2) of this section, T must allocate $500 of its overall foreign loss to A, B, and C as follows: $250 to A ($500×$500/$1,000), $125 to B ($500×$250/$1,000), and $125 to C ($500×$250/$1,000). Under paragraph (c) of this section and §1.904(f)-1(d)(4), A, B, and C must add the amounts of general limitation overall foreign loss allocated to them from T to their overall foreign loss accounts and treat such amounts as overall foreign losses incurred in 1984. A, B, and C must then apply the rules of §§1.904(f)-1, 1.904(f)-2, 1.904(f)-3, 1.904(f)-4, and 1.904(f)-6 to recapture their overall foreign losses. T's overall foreign loss account is reduced in accordance with §1.904(f)–1(e)(1) by the $500 that is allocated to A, B, and C. At the end of 1985, T's general limitation overall foreign loss account has a balance of $700.

Example 3. The facts are the same as in example 2, including an overall foreign loss account at the end of 1984 of $1,200, except that in 1985 T's general limitation foreign source taxable income is $1,500 instead of $1,000, and T accumulates the additional $500. Under paragraph (b)(1) of this section, T would be required to recapture $750 of its overall foreign loss if it accumulated all of the $1,500. Under paragraph (b)(3) of this section, T must allocate $500 of its overall foreign loss to A, B, and C as follows: $250 to A ($750×$500/$1,500) and $125 each to B and C (750×$250/$1,500). T must also recapture $250 of its overall foreign loss, which is the amount subject to recapture in 1985 that is not allocated to the beneficiaries ($750−$500=$250). Under §1.904(f)-1(e)(1), T reduces its general limitation overall foreign loss account by $500. Under §1.904(f)-1(e)(2), T reduces its general limitation overall foreign loss account by $250. At the end of 1985 there is a balance in the general limitation overall foreign loss account of $450 (($1,200−$500)−$250).

[T.D. 8153, 52 FR 32002, Aug. 25, 1987; 52 FR 43434, Nov. 12, 1987]

§ 1.904(f)–6 Transitional rule for recapture of FORI and general limitation overall foreign losses incurred in taxable years beginning before January 1, 1983, from foreign source taxable income subject to the general limitation in taxable years beginning after December 31, 1982.

(a) *General rule.* For taxable years beginning after December 31, 1982, foreign source taxable income subject to the general limitation includes foreign oil related income (as defined in section 907(c)(2) prior to its amendment by section 211 of the Tax Equity and Fiscal Responsibility Act of 1982). However, for purposes of recapturing general limitation overall foreign losses incurred in taxable years beginning before January 1, 1983 (pre-1983) out of foreign source taxable income subject to the general limitation in taxable years beginning after December 31, 1982 (post-1982), the taxpayer shall make separate determinations of foreign oil related income and other general limitation income (as if the FORI limitation under "old section 907(b)" (prior to its amendment by section 211 of the Tax Equity and Fiscal Responsibility Act of 1982) were still in effect), and shall apply the rules set forth in this section. The taxpayer shall maintain separate accounts for its pre-1983 FORI limitation overall foreign losses, its pre-1983 general limitation overall foreign losses (or its pre-1983 section 904(d)(1)(A–C) overall foreign losses if such losses were computed on a combined basis), and its post-1982 general limitation overall foreign losses. The taxpayer shall continue to maintain such separate accounts, make such separate determinations, and apply the rules of this section separately to each account until the earlier of—

(1) Such time as the taxpayer's entire pre-1983 FORI limitation overall foreign loss account and pre-1983 general limitation overall foreign loss account (or, if the taxpayer determined pre-1983 overall foreign losses on a combined basis, the section 904(d)(1)(A–C) account) have been recaptured, or

(2) The end of the taxpayer's 8th post-1982 taxable year, at which time the taxpayer shall add any remaining balance in its pre-1983 FORI limitation account and pre-1983 general limitation overall foreign loss account (or the section 904(d)(1)(A-C) account) to its post-1982 general limitation overall foreign loss account.

(b) *Recapture of pre-1983 FORI and general limitation overall foreign losses from post-1982 income.* A taxpayer having a balance in its pre-1983 FORI limitation overall foreign loss account or its pre-1983 general limitation overall